



WEB COPY



Crl.O.P.No.28230 of 2023

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in
Crl.A.SR.No.61412 of 2023

M. NIRMAL KUMAR, J.

This petition has been filed seeking to grant special leave to the petitioner to prefer the above criminal appeal.

2.The petitioner as complainant had filed a private complaint under Section 138 of the Negotiable Instruments Act against the respondent in STC No.290 of 2018. The Trial Court by judgment dated 14.09.2023, dismissed the complaint and acquitted the respondent, against which, the present leave and appeal.

3.The contention of the petitioner is that the respondent had taken a loan of Rs.1,00,000/- from the petitioner. In discharge of the said liability, he issued a cheque/Ex.P1. Thereafter, when the same was presented, it got dishonoured. After issuance of statutory notice complying the conditions, a complaint has been filed. The respondent though received statutory notice, has failed to give any reply. The only ground on which the Trial Court dismissed the complaint for the reason, writings and signature in the cheque differs. The learned counsel



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for the petitioner submits that the respondent has not denied that he has signed

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the cheque. He has also not gave any reason as to how the cheque/Ex.P1 came into the hands of the petitioner. Further, when the petitioner was cross examined, she clearly stated that the respondent himself filled up the cheque and handed over the same to the petitioner. The only suggestion is, the petitioner filled up the cheque and filed a complaint. On demurrer, if it is taken to be true, then as per the Negotiable Instruments Act, the holder of the cheque is authorised to fill up the cheque, when signed cheque has been handed over.

4.Finding reason and force in the petitioner's submission, this Court is inclined to grant leave. Accordingly, leave is granted.

19.12.2023

Note: Registry is directed to number the Criminal Appeal, if it is otherwise in order.
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